

REMARKS

Claims 1-5, 7-62, 64-74, and 76-82 were rejected in an Office Action dated August 21, 2006. Claims 1 and 58 have been amended. Support for the amendment may be found in the "Detailed Description of the Invention." Applicants respectfully request reconsideration of the present application in view of the following remarks.

Rejections under 35 USC §112

Claims 1 and 58 have been amended in view of the rejection under §112, second paragraph. Applicant contends the amendment corrects the issue regarding lack of antecedent basis, rendering moot the rejection.

Rejections under 35 USC §103

Claims 1-5, 7-14, 18-35, 39-62, 64-74, and 76-82 are rejected under 35 USC §103(a) as being obvious over Hisano (US Patent Publication No. 2003/0230859 ("859")) in view of Payne (US Patent No. 2,173,744). Applicant would like to correct the misunderstanding regarding a common assignee. There is no common assignee between the instant application (assigned to W. L. Gore & Associates, Inc.) and '859 (assigned to Japan Gore-Tex, Inc.).

Applicant strongly asserts that the present invention is not disclosed by the combination of '859 in view of Payne (US Patent No. 2,173,744) where neither reference alone, or in combination, discloses or suggests the claimed gasket or a method of making a gasket.

At page 2 of the Office Action, it is stated that based on the US filing date '859 constitutes prior art only under 35 USC §102(e). Therefore, without acquiescing to the suitability of the references for purposes of rendering the claimed invention obvious, Applicant respectfully submits the Declaration of Kevin E. Dove (Appendix) under 37 CFR §1.131 to exclude '859 as a reference under 35 USC §102(e). The Declaration clearly establishes a date of invention prior to the effective date of '859. Where all of the rejections under 35 USC §103(a) are dependent upon '859 as a primary reference, and Applicant has established an earlier date of invention, removal of the rejection under 35 USC §103(a) is requested.

Where all of the dependent claims contain all of the limitations of the independent claims from which they depend, Applicant deems these claims patentable for the reasons set forth above for the independent claims.

Conclusion

For the foregoing reasons, the present invention as defined by claims 1-5, 7-62, 64-74, and 76-82 claims are now in form for allowance. If further questions remain, Applicant requests that the Examiner telephone Applicant's undersigned representative before issuing a further Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dianne Burkhard", written over the typed name.

Dianne Burkhard, 41,650
W. L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206
(302) 738-4880

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